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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/688,281	10/13/2000	Frederick J. Oko JR.		9490

7590   05/21/2004

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EXAMINER
WON, MICHAEL YOUNG

ART UNIT	PAPER NUMBER
2155	7

DATE MAILED: 05/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>30 March 2004</u>.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-27</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-27</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

1.   Claims 1, 15, and 16 have been amended. Claims 1-27 have been re-examined

and are pending with this action.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

2.   Claims 1-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Hanson et al. (US 6457045 B1) in view of Bowcutt et al. (US 6308328 B1).

As per claim 1, Hanson teaches a method (see title) for influencing dynamic

community shared elements of content programming comprising: a plurality of

participants (see col.1, lines 41-45) obtaining electronic votes that they may later cast

(see col.1, lines 52-59); a polling server polling the plurality of participants over a

network for their opinion concerning the content of programming (see col.2, lines 43-

51); the plurality of participants casting their respective electronic votes concerning the

content of programming via the network (see col.2, lines 36-40); the polling server

receiving the electronic votes of the participants, tallying the electronic votes and

reporting those results to a content server (see col.2, lines 57-63; col.3, lines 4-6; col.4,

lines 28-31; and col.16, lines 64-66); and the content server receiving the votes and retrieving content based upon the opinion expressed by the majority of electronic votes (see col.2, lines 57-63). Hanson does not explicitly teach that the polling is done periodically. Bowcutt teaches of polling periodically (see col.19, lines 16-20). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to employ the teachings of Bowcutt within the system of Hanson by implementing periodically polling within the method of influencing dynamic community shared elements of content programming because higher polling frequency results in more accurate statistics and Bowcutt teaches that some data are requested more frequently than others during a session, thus periodic polling obtains greater and more accurate results.

As per claim 2, Hanson further teaches wherein the content is selected from the group consisting of audio, video, on-line games and text (see col.2, line 64 to col.3, line 4).

As per claim 3, Hanson further teaches wherein the content is created in real time (see col.18, lines 15-17).

As per claim 4, Hanson further wherein the content is stored content (see col.2, lines 35-36).

As per claim 5, Hanson further teaches wherein obtaining electronic votes comprises the participants purchasing the electronic votes over the network (see col.2, line 64 to col.3, line 3).

As per claim 6, Hanson further teaches wherein the obtaining electronic votes comprise, the participants being given the electronic votes (see col.2, lines 46-48).

As per claim 7 and 22, Hanson further teaches wherein the obtaining electronic votes comprises the participants purchase electronic votes of differing values per vote over the network (see col.2, line 64 to col.3, line 3).

As per claim 8, Hanson teaches of further comprising the polling server providing the results of the electronic votes cast by the participants over the network (see col.16, lines 64-66 and col.20, lines 3-6).

As per claim 9, Hanson teaches of further comprising the plurality of participants forming sub-communities of participants for voting purposes (see title: "group").

As per claim 10, Hanson teaches of further comprising the sub-communities pre-voting over the network to determine the direction of the sub-communities voting (see col.1, lines 42-45).

As per claim 11, Hanson teaches of further comprising the polling server reporting to the sub-community the results of the sub-community's voting over the network (see col.16, lines 64-66; col.18, lines 15-17; and col.20, lines 3-6).

As per claim 12, Hanson further teaches wherein the network is the Internet (see col.3, lines 8-10).

As per claim 13, Hanson does not explicitly teach wherein the network is a cable TV network. Bowcutt teaches of a cable TV network (see title). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to employ the teachings of Bowcutt within the system of Hanson by implementing the a

cable television network within the method and system of influencing dynamic

community shared elements of content programming because Bowcutt teaches that

such polling for statistics gathering accounts for efficient and complete network

management.

3.   Claims 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Hanson et al. (US 6457045 B1) and Bowcutt et al. (US 6308328 B1), further in

view of Anderson et al. (US 4290141 A).

As per claims 14 and 15, Hanson does not explicitly teach wherein the network is

an RF network or that the network comprises a wired network and a wireless network

(inherent), and wherein the participants vote via the wireless network. Anderson

teaches of an RF network (see col.6, lines 31-34) and wherein the participants vote via

the wireless network (see abstract). It would have been obvious to a person of ordinary

skill in the art at the time the invention was made to employ the teachings of Anderson

within the system of Hanson and Bowcutt by implementing an RF network and wherein

the participants vote via the wireless network within the method and system of

influencing dynamic community shared elements of content programming because RF

allows for wireless communication in which votes may be cast by mobile devices

increasing functionality and use.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act

of 1999 (AIPA) do not apply to the examination of this application as the application

being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily

published under 35 U.S.C. 122(b). Therefore, this application is examined under 35

U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4.   Claims 16-27 are rejected under 35 U.S.C. 102(e) as being anticipated by

Hanson et al. (US 6457045 B1).

As per claim 16, Hanson teaches a system (see title) for influencing dynamic

community shared elements of content programming comprising: a plurality of

participant devices each associated with a participant connected to a network (see Fig.1

and col.5, lines 62-64), the participant devices further comprising instructions for

obtaining and casting electronic votes (see col.1, lines 52-59); a transaction server

connected to the network further comprising instructions for receiving requests from the

participant devices to obtain electronic votes, and instructions for delivering electronic

votes to the participant devices over the network (see col.2, lines 57-63 and col.26, line

64 to col.27, line 13); a polling server connected to the network for receiving the electronic votes from the participant devices in response to polls sent by the polling server (see col.27, lines 14-16); the polling server further comprising instructions for receiving and tallying the electronic votes received from the participant devices, and reporting the tally (see col.27, lines 17-20 and col.16, lines 64-66); and a content server connected to the polling server for receiving the tally of the electronic votes (see col.2, lines 57-63; col.3, lines 4-6; col.4, lines 28-31; and col.16, lines 64-66), the content server further comprising instructions for modifying content served to the participant devices in response to the tally of electronic votes (see col.2, lines 57-63 and col.5, lines 1-4).

As per claim 17, Hanson further teaches wherein the content is selected from the group consisting of audio, video, online games and text (see claim 2 rejection above).

As per claim 18, Hanson further teaches wherein the content is created in real time (see claim 3 rejection above).

As per claim 19, Hanson further teaches wherein the content is stored content (see claim 4 rejection above).

As per claim 20, Hanson further teaches wherein the electronic votes are purchased by the participant via the participant device, by the transaction server over the network (see claim 5 rejection above).

As per claim 21, Hanson further teaches wherein the electronic votes, are given to the participant devices by the transaction server over the network (see claim 6 rejection above).

As per claim 22, Hanson further teaches wherein the electronic votes comprise votes of different values (see claim 7 rejection above).

As per claim 23, Hanson further teaches wherein participant devices further comprise instructions for casting the electronic votes in response to a poll served by the polling server (see claim 8 rejection above).

As per claim 24, Hanson further teaches wherein the polling server further comprises instructions for reporting the results of the voting to the participant devices over the network (see claim 11 rejection above).

As per claim 25, Hanson further teaches wherein the polling server further comprises instructions for receiving requests from participant devices to form a sub-community of participant devices (see claim 9 rejection above).

As per claim 26, Hanson further teaches wherein the polling server further comprises instructions for permitting a pre-vote of the sub-community on a given poll (see claim 10 rejection above).

As per claim 27, Hanson further teaches wherein the polling server further comprises instructions for reporting the sub-community vote to the participant devices of the sub-community (see claim 11 rejection above).

Response to Arguments

5.   In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies

(i.e., "obtaining voting rights") are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Furthermore, the reference location teaching the first element is col.1, lines 52-59, not col.1, lines 48-51 as quoted in the amendment.

6.   In response to the argument of claims 1 and 16 regarding the definition of "content", content is generally any information provided in a web page as opposed to it's design and layout such as it's textual or graphical information. Clearly Hanson describes his content as being dynamic because the content is "asynchronously dynamically updated or dynamically retrieved in response to open action by at least one of the participants" (see col.2, lines 36-40). Hanson further adds that the contents include choices such as "a schedule, a poll, a survey, an election... " (see col.2, line 62 to col.3, line 3). If the applicant believes that there is a clear distinction between what is known in the art and what Hanson teaches, as compared to what is stated in claims 1 and 16, then the applicant is suggested to direct the examiner to the definition in the specification.

Additionally Hanson teaches that each dynamic content region, within an electronic medium, includes dynamic content (see col.2, lines 52-57). Therefore, it is implicit that when Hanson teaches of an alternative external source with the server to deliver content to the dynamic content regions (see col.3, lines 4-6), he is teaching of a content server or content provider (see col.4, lines 50-52).

7.   For the reasons stated above, claims 1-16 remain rejected.

8.   Applicant's arguments do not comply with 37 CFR 1.111(c) because they do not

clearly point out the patentable novelty which he or she thinks the claims present in view

of the state of the art disclosed by the references cited or the objections made. Further,

they do not show how the amendments avoid such references or objections. Even if the

references cited do not teach of a content server, which it does, the addition of a server

within network does not make the claimed invention novel. The claims need to be

amended to clearly recite and teach a _functional_ novelty.

Conclusion

9.   Applicant's amendment necessitated the new ground(s) of rejection presented in

this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37

CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any
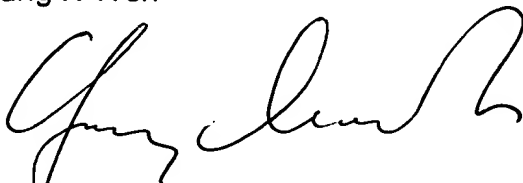
extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the date of this final action.

10.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Young N Won whose telephone number is 703-605-

4241. The examiner can normally be reached on M-Th: 6AM-3PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Hosain T Alam can be reached on 703-308-6662. The fax phone number

for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

Young N Won

HOSAIN ALAM
SUPERVISORY PATENT EXAMINER

May 20, 2004